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Customer No. 28596  
Attorney Docket No. FA/220B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Haimerl )

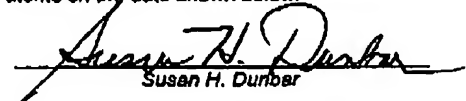
Serial No.: 10/069,057 )

Filed: February 15, 2002 )

For: Footwear with a Sealed Sole  
Construction and Process for  
Its Production )

) Group Art Unit: 3728  
) Examiner: Marie D. Patterson  
)

*I hereby certify that this correspondence is being  
facsimile transmitted to the Commissioner for  
Patents on the date shown below:*

  
Susan H. Dunbar

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

August 15, 2006  
(date of faxing document)

RESPONSE TO OFFICE ACTION

Dear Sir:

In response to the Office Action mailed on April 11, 2006, Applicant presents the following remarks.

Claims 1-8, 37, 38, 67, and 69 are pending and stand rejected.

Reconsideration is respectfully requested in view of the following remarks.

Claims 1-8, 37, 38, 67, and 69 stand rejected under 35 USC §103(a) as obvious over Haimerl in view of either Nowicki or Muller. The Examiner asserts that Haimerl shows a shoe and inherent/obvious process of making said shoe comprising an upper having an outer material and a functional layer, an outsole, and an adhesive zone comprising a hot-melt adhesive/sealing substance, and the outsole is cemented to the upper substantially as claimed except for the exact hot-melt adhesive/sealing substance. The Examiner goes on to assert that either Nowicki or Muller provide evidence of official notice that reactive hot-melt polyurethane adhesives are well known as adhesives which are also sealing agents. Therefore, the Examiner concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use any known polyurethane based adhesive/sealing agent, including reactive hot-melt adhesive as clearly taught by either Nowicki or Muller, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Applicant respectfully traverses this rejection.